

REMARKS

Claims 1 to 23, are pending in this application; of which, claims 1, 5, 12, 17 and 21 are the independent claims. Favorable reconsideration and further examination are respectfully requested.

Initially, Applicant thanks the Examiner for conducting an interview on December 14, 2006. The Examiner indicated that the cited prior art would be withdrawn if the claims were amended to include "an axis." The Examiner also agreed to cite Haber et al. (U.S. Patent Number 5,536,253) cited in a continuation-in-part application, U.S. Patent Application Number 11/005,327, for which the Examiner is examining concurrently with this application.

The Examiner objected to claims 1, 22 and 23. Claim 1 was objected to for including the word "user position" instead of a "use position." Claim 22 was objected to because the term "including pressure the longitudinal member" is not grammatically correct. Claim 23 was objected to because "pushed the needle out a patient's body" was allegedly incorrect. The claim 23 actually recites "pushes the needle out a patient's body." Applicant has amended claims 1, 22 and 23. Applicant respectfully requests withdrawal of the objections.

Claims 1 to 23 were rejected under 35 U.S.C. §102(e) as being anticipated by Huet (U.S. Patent Number 6,663,604 hereinafter "Huet").

Amended claim 1 is directed to a medical device having a use position and a non-use position. The medical device includes a housing having first and second portions each having

respective first and second ends. The second portion has a first position in the use position and a second position in the non-use position. The first housing portion extends along an axis. The medical device also includes a longitudinal member having first and second ends. The longitudinal member extends from the housing along the axis in the use position and is captured by the first housing portion in the non-use position. The medical device further includes a needle extending downwardly from the housing in the use position and not extending from the device in the non-use position.

The applied art is not understood to disclose or to suggest the foregoing features of claim 1. In particular, Huet does not disclose or suggest a first housing portion extending along an axis and a longitudinal member extending from the housing along the axis in the use position (see, for example, FIGS. 6, 8A, 8B and 8C of Applicant's specification).

Huet is directed towards an anti-stick device for the safe handling of a needle (see Abstract of Huet). The Examiner has identified a section F as being the first portion of the housing and a section A as being the longitudinal member (see page 3 of the Office Action and FIG. 10 of Huet). Applicant submits that the section A remains flush and rigidly attached with the section F in a use position and a non-use position and never extends along the axis from the section F (see FIGS. 7 and 10 of Huet). Therefore, Huet does not disclose or suggest a first housing portion extending along an axis and a longitudinal member extending from the housing along the axis in the use position.

Independent claim 5, 12, 17 and 21 include the features in claim 1 of a first housing portion extending along an axis and a longitudinal member extending from the housing along the

axis in the use position. Applicant submits the Huet reference should also be withdrawn with respect to claims 5, 12, 17 and 21 for at least the same reasons as claim 1.

For at least the foregoing reasons, Applicant requests withdrawal of the art rejection.

Applicant submits that all dependent claims now depend on allowable independent claims.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for withdrawing the prior art cited with regards to any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant submits that the entire application is now in condition for allowance. Such action is respectfully requested at the Examiner's earliest convenience.

All correspondence should be directed to the address below. Applicant's attorney can be reached by telephone at (781) 401-9988 ext. 23.


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No fee is believed to be due for this Response; however, if any fees are due, please apply such fees to Deposit Account No. 50-0845 referencing Attorney Docket: MMED-002AUS.

Respectfully submitted,

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